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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,193	11/19/2001	Manuel Barbosa	11017-0003	8121

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,193

Applicant(s)

BARBOSA, MANUEL

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7,9,10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9,10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Translation of JP 403244837 A.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preambles of claims 13 and 14 need to be -- A backing plate --, not "A combination".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 9, 10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaneshiro et al.

Re: claim 1, Kaneshiro et al. show a backing plate, as in the present invention, comprising: abutment plate means 3, 5, 6 for resisting braking forces; and shielding plate 2 made of damped steel, see page 6, 2nd paragraph of the enclosed translation, for shielding brake components from dust and dirt and reducing noise and vibrations.

Re: claims 13 and 14, figure 1 shows that the abutment plate means 3, 5, 6 and the shielding plate 2 are attached to each other; where a hydraulic wheel cylinder 4 is mounted on the shielding plate.

Re: claim 4, Kaneshiro shows a backing plate, as in the present invention, comprising: an abutment plate 3, 5, 6 having a first part 6 to be attached to an axle of a vehicle and a second part 5 for resisting braking forces; and a shielding plate 2 made of damped steel, see page 6, 2nd paragraph of the enclosed translation, for shielding brake components from dust and dirt and reducing noise and vibrations.

Re: claim 9, Kaneshiro shows a shielding plate 2 comprising a sheet of damped steel, see page 6, 2nd paragraph of the enclosed translation, for shielding brake components from dust and dirt and reducing noise and vibrations, and abutment plate 3, 5, 6 configured to engage brake shoes 10a, 10b and to resist braking forces applied by said brake shoes.

Re: claim 10, figure 1 shows that the brake assembly is a drum brake.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneshiro et al.

Kaneshiro's backing plate, as discussed in the above rejection of claim 4, is silent of the material of the abutment plate. The Examiner takes an Official Notice that steel is an old and well-known material for use in an abutment plate; since steel is readily available and durable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used steel as the material for Kaneshiro's abutment plate; since steel is an old and well-known material for its durability.

Re: claim 15, Kaneshiro shows a drum brake, as in the present invention, comprising: an abutment plate 3, 5, 6 comprising a sheet having a first part 6 configured to attached to an axle housing and a second part 5 configured to resist the brake forces, and a shielding plate 2 made of damped steel, see page 6, 2nd paragraph of the enclosed translation, attached to said abutment plate and configured to support brake shoes 10a, 10b. Kaneshiro's backing plate, as discussed above, is silent of the material of the abutment plate. The Examiner takes an Official Notice that steel is an old and well-known material for use in an abutment plate; since steel is readily available and durable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used steel as the material for Kaneshiro's abutment plate; since steel is an old and well-known material for its durability.

Re: claim 16, figure 1 shows wheel cylinder 4 mounted on the shielding plate 2.

7. Claims 3, 6, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneshiro et al. in view of Hansen et al.

Kaneshiro's shielding plate, as discussed in the above rejections of claims 1, 4, 9 and 15, is silent to the two outer steel sheets of equal thickness. Hansen et al. teach

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the structure of the damped steel wherein the two outer steel sheets are of equal thickness in column 3, lines 60-63. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed Kaneshiro's shielding plate with a damped steel such as taught by Hansen; since said damped steel which consists of two outer steel sheets of equal thickness is well known for their vibration and noise reduction capability.

Response to Arguments

8. Applicant's arguments have been fully considered. A modified rejection is due to Applicant's amendment and the availability of the translation of the Kaneshiro's document.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347.

The examiner can normally be reached on M-F, 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4177.

XLN

XLN
April 28, 2003

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

